

A RESOLUTION AUTHORIZING AN AMENDED SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP OF NORTH BRUNSWICK, THE PLANNING BOARD OF THE TOWNSHIP OF NORTH BRUNSWICK, K. HOVNANIAN AT NORTH BRUNSWICK VI, LLC, COMMERCE CENTER NB, LLC AND COMMERCE CENTER NB1, LLC

WHEREAS, in February of 1997, various K. Hovnanian parties and the Township of North Brunswick (the "Township") and the Planning Board of the Township of North Brunswick (the "Planning Board") entered into a Settlement Agreement to resolve development and zoning issues on various properties owned and controlled by the various K. Hovnanian parties, known and designated as: Block 4.46, Lot 1.05; Block 4.46, Lots 1.01 and 1.02; and Block 4.46, Lot 1.04, on the Official Tax Map of the Township of North Brunswick; and

WHEREAS, K. Hovnanian at North Brunswick VI, LLC (hereinafter "K. Hovnanian") as the successor-in-interest to various K. Hovnanian parties, is the owner of property known and designated as Block 4.46, Lot 1.05 on the Official Tax Map of the Township of North Brunswick, (the "K. Hovnanian Property"); and

WHEREAS, K. Hovnanian as successor-in-interest to the K. Hovnanian parties, holds approval from the Planning Board of the Township of North Brunswick for a development comprising 108 townhomes known as "Governor's Pointe III" or "Hartland Square" on the K. Hovnanian Property; and

WHEREAS, in addition to the residential component, K. Hovnanian's site approval included a commercial component; and

WHEREAS, the lands comprising the commercial component of the site plan approval consist of property known and designated as Block 4.46, Lots 1.01 and 1.02 and Block 4.46, Lot 1.04 on the Official Tax Map of the Township of North Brunswick (the "Commercial Site"); and

WHEREAS, Commerce Center NB, LLC and Commerce Center NB1, LLC (collectively referred to hereinafter as the "Commerce Parties") as the successor-in-interest to various K. Hovnanian parties owns the land and approvals for the Commercial Site and desires to develop a portion of the Commercial Site in a manner which was not a part of the original site plan approval; and

WHEREAS, K. Hovnanian filed a motion in the Superior Court of New Jersey seeking relief to compel the Township to issue building permits for the residential portion of the development; and

WHEREAS, on October 29, 2010, the Honorable Nicholas J. Stroumtsos issued an order requiring the Township to issue the building permits for residential units and the Township complied with such order; and

WHEREAS, all of the affected parties entered into negotiations and have amicably resolved their differences as to the residential and commercial components of the original site plan approval for the K. Hovnanian Properties and the Commercial Site, the terms of which are set forth in the proposed Amended Settlement Agreement attached hereto and made a part hereof.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Township Council of the Township of North Brunswick, Middlesex County, New Jersey, that the Amended Settlement Agreement between the Township of North Brunswick, the Planning Board of the Township of North Brunswick, at North Brunswick VI, LLC; Commerce Center NB, LLC and Commerce Center NB1, LLC, in substantially similar form to the Amended Settlement Agreement attached hereto, be and is hereby authorized and approved; and

BE IT FURTHER RESOLVED, that the Mayor, and Township Clerk, are hereby authorized to execute said Amended Settlement Agreement and to execute any and all further documents necessary to effectuate the settlement of this matter.